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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,921	09/18/2003	Ralph W. Cooper	MAT0001-US1	7057

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STANLEY K. HILL
GUERIN & RODRIGUEZ, LLP
5 Mount Royal Ave.
Mount Royal Office Park
Marlborough, MA 01752

EXAMINER

GARBER, CHARLES D

ART UNIT PAPER NUMBER

2856

DATE MAILED: 01/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/665,921	Applicant(s) COOPER, RALPH W.	
	Examiner Charles D. Garber	Art Unit 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-14,20-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 01/10/2006 have been fully considered but they are not persuasive. Applicant argues Thompson does not teach a system consisting essentially of only one flow sensor or switch and that Thompson teaches away from this simpler configuration because Thompson requires a sensor at each water source and Thompson depicts the invention in a building (home) with many water sources.

Examiner considers this is an obvious modification of the Thompson device for the reasons given below in the new grounds of rejection. While Examiner can appreciate the apparent cost benefit the instant invention has over the Thompson invention as depicted Examiner does not consider this is a reason for showing non-obviousness or as evidence of commercial success or long felt need.

Applicant also argues the instant invention is more easily installed and can be easily reached when it needs to be reset or repaired because of the close proximity between the sensor and control box. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., close proximity between the sensor and control box) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson (US Patent 5,441,070).

Regarding claims 15, 17, 18, Thompson discloses a fluid management system with flow sensors 60 through 74 which are used to detect intended and proper use of water dispensing devices (column 5 line 62 to column 6 lines 18). Thompson also discloses determining a leak if pressure decay based on pressure sensor signal and pressure timing means indicate lost pressure while there is no usage indicated by **any single** flow sensor (see column 3 lines 13-40 and column 10 line 56 through column 11 line 45). Thompson discloses the user demand is based on a signal from a flow sensor (FS1, FS2, FS3) coupled to a relay switch. Thompson discloses in US Patent

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5,161,563 incorporated in the aforementioned patent by reference that the flow sensors are paddle type flow switches.

A flow meter is "An instrument for monitoring, measuring, or recording the rate of flow, pressure, or discharge of a fluid, as of a gaseous fuel" according to The American Heritage Dictionary of the English Language. The flow sensor of Thompson may be considered to monitor the discharge of flow as in this flow meter definition. In this respect the flow sensor of Thompson may be considered to be both a flow meter and a flow switch. Thompson specifically identifies the Kobold PSR-5115 flow switch (see attached specification sheet) which has an adjustable activation value inherently equivalent to a preset minimal user flow rate as in the instant invention.

Thompson does not expressly disclose the device may consist essentially of only one flow meter or switch. However, Examiner considers the reduction in the number of similarly functioning elements involves only routine skill in the art. *In re Karlson*, 136 USPQ 184. In this case, one having ordinary skill in the art would know to employ only as many sensors as there are water sources. The Thompson reference generally applies to "house or building", not just homes with a specific configuration of rooms and appliances. The reasonable person with ordinary skill would understand the Thompson invention would advantageously apply to houses that may not have a washroom, or a house with many bathrooms, or a house without a basement or a house without a laundry room as depicted. Indeed, Examiner considers the person having ordinary skill would understand the Thompson invention would advantageously apply to any configuration of rooms and appliances including the trivial case of only one detector at

one water-using appliance. An example might include an outbuilding such as a detached garage with only a deep sink that is seldom used where a leak could go undetected for long periods.

As for claim 16, Thompson discloses closing the main shut-off valve (column 11 lines 32-33) in the event the pressure decays while there is no monitored flow.

As for claim 19, Thompson discloses the pressure sensor is a "pressure switch" (column 10 line 64).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles D. Garber whose telephone number is (571) 272-2194. The examiner can normally be reached on 8:00 a.m. to 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles D. Garber
Primary Examiner
Art Unit 2856

cdg